IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10820 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAHENDRAKUMAR GORDHANBHAI PATEL

Versus

UNION OF INDIA

Appearance:

MR LAKHPATSINH DABHI for Petitioner

MR ANANT S DAVE for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/10/2000

ORAL JUDGEMENT

Rule. Mr.A.S.Dave, Learned Additional Standing Counsel for Central Government waives service of rule for respondents.

2. In this petition under Article 226 of the Constitution, the petitioner has prayed for a writ of mandamus directing the respondents to rectify the error in the passport in respect of petitioner's date of birth and place of birth as per birth certificate issued by the Registrar, Birth & Death, Gram Panchayat, Bhadran.

3. The petitioner's case is that the petitioner had earlier applied for passport, however, in the passport, the date of birth and place of birth of the petitioner were as 18.3.1946 and Godhra-Kaira which are not true and not correct. As per the birth certificate issued by the Registrar, Birth & Death, Bhadran Gram Panchayat, Tal.Borsad, Dist.Anand (at annexure "A" to the petition) the correct birth date of the petitioner is 18.7.1946 and the correct place of birth is Bhadran, Tal.Borsad. Since the name of the child was not mentioned in the birth certificate, Patel Bhagubhai Ranchhodbhai, a close relative of the petitioner has filed affidavit stating that the child born on 18.7.1946 to Shantaben was petitioner Mahendrabhai(at annexure "D" to the petition).The petitioner, therefore, has requested the second respondent to issue the passport showing the correct date of birth and correct place of birth of the petitioner, which was rejected by the second respondent. Hence, the petitioner has filed the present petition.

4. Having heard the learned counsel for parties and having regard to the facts and circumstances of the case, the Regional Passport Officer is directed to consider the petitioner's request for change of date of his birth and place of his birth in the passport in accordance with law on the basis of the material which may be placed before the Regional Passport Officer, more particularly the birth certificate issued by the Registrar of Births & Deaths, Bhadran Gram Panchayat, Taluka Borsad Dist.Anand (at Annexure "A" to the petition) and affidavit filed by Bhagubhai Ranchhodbhai Patel, the close relative of the petitioner (at annexure "D" to the petition) and shall pass appropriate orders within a period of four weeks from the date of receipt of the writ of this Court or a certified copy of this judgment, whichever is earlier.

In case the petitioner is required to apply for a fresh passport, the petitioner shall comply with the requisite formalities for the same.

5. The petition is accordingly allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent.

6. Since the respondents are not responsible for the mistake in question, the petitioner shall pay costs of this petition which are quantified at Rs.1,500/- to the second respondent within two weeks from today. Direct Service is permitted.

16.10.2000 (M.S.SHAH,J)